

State Human Rights Committee
2004 Annual Report
On the Status of the DMHMRSAS Human
Rights System

Approved by the SHRC on June 3, 2005

Presented to the
State Mental Health, Mental Retardation and Substance Abuse Services Board
June 16, 2005

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MESSAGE FROM THE SHRC CHAIR and THE DIRECTOR OF HUMAN RIGHTS

The State Human Rights Committee's Annual Report presents our activities and accomplishments and those of the Office of Human Rights during 2004 to protect the legal and human rights of consumers receiving services in community programs and state facilities operated, funded, or licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services. It is our hope that this report enlightens you about the protection of the human rights of individuals receiving services and the contributions of Virginia's citizens to assure these rights.

The Committee has a long-standing practice of conducting its meetings at community programs and state facilities across the Commonwealth. This practice is extremely important to our consumers, families, volunteers, staff, SHRC members and the Human Rights staff. We held meetings at four state facilities, one private hospital, one Community Services Board/Behavioral Health Authority and one at the Department's Central Office. These meetings provided opportunities for the SHRC to meet service providers, visit programs, receive feedback from consumers about the quality of care, and share our point of view about human rights issues. Staff, consumers and family members also shared their experiences and discussed how the SHRC could improve the effectiveness of service delivery.

During this year, we made great strides in our decisions and actions to ensure the Committee met its statutory requirements. Julie Stanley, Assistant Commissioner, Administrative and Regulatory Compliance and Director of Integration for Olmstead, attended our March meeting to update us on activities pertaining to the Olmstead decision. The Office of the Attorney General provided guidance in the OAG statement, "Appointment of Departmental Employees to LHRCs", which states that the regulation is most correctly read to prohibit DMHMRSAS employees from serving on LHRCs.

The LHRC/SHRC Seminar was held in March, the first since fall of 2001. The SHRC decided to poll the LHRCs for topics. We received overwhelming feedback from LHRC members that the Seminar should focus on the roles and functions of Local Human Rights Committees. Based on the evaluations the event was very successful.

During our March SHRC meeting, we agreed to permit Local Human Rights Committees to terminate affiliations with providers when affiliates are found to be in substantial non-compliance with Human Rights Regulations with a notification to the licensing agent of this action. A subcommittee was also appointed to review an appeal at Southern Virginia Mental Health Institute.

The State Mental Health, Mental Retardation and Substance Abuse Services Board reestablished its practice to assign liaisons between the Board and the SHRC and appointed members to serve in this capacity. State Board members attended meetings at Catawba Hospital and Western State Hospital.

In July Dr. Michael Marsh, our Vice Chair, agreed to lead a Subcommittee review of the recruitment process for Local Human Rights Committee appointments. The SHRC accepted the Subcommittee's recommendations for revisions to the LHRC application and guidelines.

The Committee expressed an interest in the state procedures for employee disciplinary actions related abuse allegations in response to an issue raised by an advocate about hearing officers and invited a Department representative to our September meeting. We received a presentation from Stephanie

Wade, a Human Resources Consultant in the Department's Human Resources Data Management Office. Ms. Wade provided an overview of the state grievance procedure and how written notices were processed and reduced.

As a follow-up to our initial visit last year to it's opening, we visited the Virginia Center for Behavioral Rehabilitation on the DMHMRSAS campus in Dinwiddie County. We completed our first year serving as their Local Human Rights Committee with oversight of their human rights program. We approved five policies this year and received monthly reports from the Advocate assigned to the Center.

We provided Local Human Rights Committees guidance for decisions made by partial committees. This was an important issue to address in order to ensure that Committees can function within the regulations and prevent delays in decision-making and program implementation.

This year, the State Human Rights Committee established a Work plan with seven goals:

SHRC Goal LHRC Application Guidance

SHRC Goal 1: Periodic Review of the Regulations; H3R Advisory Committee

SHRC Goal 2: Promote Concept of Recovery

SHRC Goal 3: Promote Provider Training

SHRC Goal 4: TOVA Training

SHRC Goal 5: Office of Human Rights Staff

SHRC Goal 6: Monitor VCBR

SHRC Goal 7: LHRCs

SHRC Goal 8: Training

The Enhanced Communication Sub-committee was appointed to develop and produce a newsletter to provide a vehicle for communication between the SHRC, LHRCs and staff in the Office of Human Rights.

The success of the Human Rights Program and the Office of Human Rights rests with dedicated staff and advocates, committed volunteers who serve on our Local Human Rights Committees, the support of the State Mental Health, Mental Retardation and Substance Abuse Services Board, and employees in community and facility programs who ensure our consumers are treated with dignity and respect and receive the appropriate level of services. The SHRC continued to meet with consumers who shared their opinions about the quality of care, visited community programs and listened to staff and family members' viewpoints about how we can improve the effectiveness of our system.

The SHRC continued its efforts to stay abreast of human rights and legal issues affecting our service delivery system. The Committee continued to provide opportunities for the human rights advocates, consumers, family members and other interested persons to present key issues that affect our administration and service delivery in our system.

We extend our sincere gratitude to the human rights staff and our volunteers who serve on local human rights committees and the State Human Rights Committee for their tremendous effort in support of the human rights program. We are proud of the past year's accomplishments and look forward to the future with confidence that with our dedicated staff, loyal volunteers and the support of the Department of Mental Health, Mental Retardation and Substance Abuse Services, we will succeed in making this program the best possible.

A handwritten signature in dark ink, reading "Joyce E. Bozeman". The signature is fluid and cursive, with the first name "Joyce" being more prominent.

Joyce E. Bozeman, Ph.D., Chair
State Human Rights Committee

Margaret Walsh, Director
Office of Human Rights

OVERVIEW

The Department's Office of Human Rights, established in 1978, has as its basis the ***Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services***. The Regulations outline the Department's responsibility for assuring the protection of the rights of consumers in facilities and programs operated funded and licensed by DMHMRSAS.

Title 37.1-84.1, Code of Virginia (1950), as amended, and the Office of Human Rights assure that each consumer has the right to:

- Retain his legal rights as provided by state and federal law;
- Receive prompt evaluation and treatment or training about which he is informed insofar as he is capable of understanding;
- Be treated with dignity as a human being and be free from abuse and neglect;
- Not be the subject of experimental or investigational research without his prior written and informed consent or that of his legally authorized representative.
- Be afforded the opportunity to have access to consultation with a private physician at his own expense;
- Be treated under the least restrictive conditions consistent with his condition and not be subjected to unnecessary physical restraint or isolation;
- Be allowed to send and receive sealed letter mail;
- Have access to his medical and mental records and be assured of their confidentiality;
- Have the right to an impartial review of violations of the rights assured under section 37.1-84.1 and the right to access legal counsel; and
- Be afforded the appropriate opportunities... to participate in the development and implementation of his individualized service plan.

The State Human Rights Committee's function is to monitor and make suggestions regarding the protection of the legal and human rights of consumers who receive services in programs or facilities operated, funded or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services, and to ensure that services are provided in a manner compatible with human dignity and under the least restrictive conditions consistent with the consumer's needs and available services. The SHRC has the responsibility of monitoring and evaluating the implementation and enforcement of the ***Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*** promulgated pursuant to §37.1-84.1 of the Code of Virginia, as amended.

The State Human Rights Committee (SHRC):

- ◆ The SHRC consists of nine members appointed by the State Mental Health, Mental Retardation and Substance Abuse Services Board (hereinafter the Board).
 - a. Members shall be broadly representative of professional and consumer interests and of geographic areas in the Commonwealth. At least two members shall be individuals who are receiving services or have received within five years of their initial appointment public or private mental health, mental retardation, or substance abuse treatment or habilitation services. At least one-third shall be consumers or family members of similar individuals.

- b. No member can be an employee or Board member of the Department or a Community Services Board.
 - c. All appointments after November 21, 2001 shall be for a term of three years.
 - d. If there is a vacancy, interim appointments may be made for the remainder of the unexpired term.
 - e. A person may be appointed for no more than two consecutive terms. A person appointed to fill a vacancy may serve out that term, and then be eligible for two additional consecutive terms.
- ◆ Elect a chair from its own members who shall:
 - a. Coordinate the activities of the SHRC;
 - b. Preside at regular meetings, hearings and appeals; and
 - c. Have direct access to the Commissioner and the Board in carrying out these duties.
- ◆ Upon request of the Commissioner, Human Rights Advocate, provider, Director, an individual or individuals receiving services, or on its own initiative, the SHRC may review any existing or proposed policies, procedures, or practices that could jeopardize the rights of one or more individuals receiving services from any provider. In conducting this review, the SHRC may consult with any Human Rights Advocate, employee of the Director, or anyone else. After this review, the SHRC shall make recommendations to the Director or Commissioner concerning changes in these policies, procedures, and practices.
- ◆ Determine the appropriate number and geographical boundaries of LHRCs and consolidate LHRCs serving only one provider into regional LHRCs whenever consolidation would assure greater protection of rights under the regulations.
- ◆ Appoint members of LHRCs with the advice of and consultation with the Commissioner and the State Human Rights Director.
- ◆ Advise and consult with the Commissioner in the employment of the State Human Rights Director and Human Rights Advocates.
- ◆ Conduct at least eight regular meetings per year.
- ◆ Review decisions of LHRCs and, if appropriate, hold hearings and make recommendations to the Commissioner, the Board, and providers' governing bodies regarding alleged violations of individuals' rights according to the procedures specified in the regulations.
- ◆ Provide oversight and assistance to LHRCs in the performance of their duties hereunder.
- ◆ Notify the Commissioner and the State Human Rights Director whenever it determines that its recommendations in a particular case are of general interest and applicability to providers, Human Rights Advocates, or LHRCs and assure the availability of the opinion or report to providers, Human Rights Advocates, and LHRCs as appropriate. No document made available shall identify the name of individuals or employees in a particular case.
- ◆ Grant or deny variances according to the procedures specified in Part V (12 VAC 35-115-220) of the regulations and review active variances at least once every year.
- ◆ Make recommendations to the Board concerning proposed revisions to the regulations.

- ◆ Make recommendations to the Commissioner concerning revisions to any existing or proposed laws, regulations, policies, procedures, and practices to ensure the protection of individuals' rights.
- ◆ Review the scope and content of training programs designed by the department to promote responsible performance of the duties assigned under the regulations by providers, employees, Human Rights Advocates, and LHRC members, and, where appropriate, make recommendations to the Commissioner.
- ◆ Evaluate the implementation of the regulations and make any necessary and appropriate recommendations to the Board, the Commissioner, and the State Human Rights Director concerning interpretation and enforcement of the regulations.
- ◆ Submit a report on its activities to the Board each year.
- ◆ Adopt written bylaws that address procedures for conducting business; making membership recommendations to the Board; electing a chair, vice chair, secretary and other officers; appointing members of LHRCs; designating standing committees and their responsibilities; establishing ad hoc committees; and setting the frequency of meetings.
- ◆ Review and approve the bylaws of LHRCs.
- ◆ Publish an annual report of the status of human rights in the mental health, mental retardation, and substance abuse treatment and services in Virginia and make recommendations for improvement.
- ◆ Require members to recuse themselves from all cases where they have a financial, family or other conflict of interest.
- ◆ Perform any other duties required under the regulations.

MISSION STATEMENT

The Office of Human Rights assists the Department in fulfilling its legislative mandate under §37.1-84.1 of the Code of Virginia to assure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed or funded by the Department.

The mission of the Office of Human Rights is to monitor compliance with the human rights regulations by promoting the basic precepts of human dignity, advocating for the rights of persons with disabilities in our service delivery systems, and managing the DMHMRSAS Human Rights dispute resolution program.

STRUCTURE

The Office of Human Rights is located within the Department of Mental Health, Mental Retardation and Substance Abuse Services and is supervised by the State Human Rights Director. The State Human Rights Director oversees statewide human rights activities and provides guidance and direction to human rights staff.

The **State Human Rights Committee** consists of nine volunteers, who are broadly representative of various professional and consumer groups, and geographic areas of the State. Appointed by the State Board, the SHRC acts as an independent body to oversee the implementation of the human rights program. Its duties include to: receive, coordinate and make recommendations for revisions to regulations; review the scope and content of training programs; monitor and evaluate the implementation and enforcement of the regulations; hear and render decisions on appeals from complaints heard but not resolved at the LHRC level; review and approve requests for variances to the regulations, review and approve LHRC bylaws, and appoint LHRC members.

The **Local Human Rights Committees** are committees of community volunteers who are broadly representative of various professional and consumer interests. LHRCs play a vital role in the Department's human rights program, serving as an external component of the human rights system. LHRCs review consumer complaints not resolved at the program level; review and make recommendations concerning variances to the regulations; review program policies, procedures and practices and make recommendations for change; conduct investigations; and review restrictive programming.

Advocates represent consumers whose rights are alleged to have been violated and perform other duties for the purpose of preventing rights violations. Each state facility has at least one advocate assigned, with regional advocates located throughout the State who provide a similar function for consumers in community programs. The Commissioner in consultation with the State Human Rights Director appoints advocates. Their duties include investigating complaints, examining conditions that impact consumer rights and monitoring compliance with the human rights regulations.

STATE HUMAN RIGHTS COMMITTEE MEMBERS

Joyce Bozeman Chair

Joyce E. Bozeman, Ph.D. Dr. Bozeman was appointed on July 1, 2001. She has administrative and teaching experience in Higher Education, State Government, and Non-Profit Organizations. Prior to her current position as Assistant Vice President for Finance at Norfolk State University, she was Senior Policy Advisor to the President of Virginia State University. Dr. Bozeman worked for DMHMRSAS as Executive Assistant to the DMHMRSAS Commissioner from 1987 to 1991. Dr. Bozeman resides in Chesapeake.

Dr. Michael Marsh Vice Chair

R. Michael Marsh, MSW, MPA, Ph.D. Social Worker, retired. Dr. Marsh was appointed on July 1, 2001. He has served on the Blue Ridge CSB (now known as the Blue Ridge Behavioral Healthcare) LHRC, and provided outstanding leadership and direction to the LHRC as Chair. Dr. Marsh retired as Facility Director of Catawba Hospital for the DMHMRSAS in 1995 having served in that capacity for 17 years. Prior to employment with DMHMRSAS he was a Medical Service Corps officer serving in a variety of positions in the Army that included working as a clinical social work officer and as a general staff officer in the Headquarters Department of the Army and in the Office of the Secretary of Defense. Dr. Marsh resides in Salem.

Dr. Angela Brosnan

Dr. Angela S. Brosnan, Psychiatrist. Dr. Brosnan was appointed on March 15, 2002. Dr. Brosnan was staff Psychiatrist and Medical Director of the substance abuse program at the Mental Health Clinic of McGuire Veterans Administration Hospital in Richmond. She also served as Consultant on Psychiatry for Child Neurology at the Bureau of Crippled Children in Richmond, Chairman of the Physician's Consulting Group at St. Mary's Hospital in Richmond, and President of the Richmond Psychiatric Society. Dr. Brosnan is in private practice for both inpatient and outpatient psychiatry and is a member of the Medical Malpractice Advisory Panel to the Supreme Court of Virginia. Dr. Brosnan resides in Richmond.

Ms. Carmen Anne Thompson

Mrs. Carmen Anne Thompson was appointed on June 28, 2002. Ms. Thompson served two consecutive terms on the Catawba Hospital Local Human Rights Committee (LHRC), during which time she consistently demonstrated her personal commitment to the protection of human rights. She was an outstanding member of the LHRC and served as Chair during her second term. She is a mental health consumer and has family receiving substance abuse

services. Ms. Thompson has a background in education and motivational speaking. Ms. Thompson resides in Moneta (beautiful Smith Mountain Lake), Virginia.

Ms. Davey Zellmer

Ms. Doris “Davey” Zellmer was appointed on June 28, 2002. At the time of her appointment she was serving as Chair of the Northern Virginia Training Center LHRC. Ms. Zellmer is a retired Registered Nurse and an ANA Certified Psychiatric Nurse. She served as Director of the Rehabilitation Services Unit, Director of the Community Care Unit, and Director of the Social Center for Psychiatric Rehabilitation at the Mount Vernon Center for Community Mental Health in southern Fairfax County. Ms. Zellmer is a consumer and has a son who is receiving services in the community. Ms. Zellmer resides in Fredericksburg.

Ms. Delores Archer

Ms. Delores Archer is Director of Intake and Referral for the Department of Psychiatry at VCU Medical Center. She has clinical training and expertise in the field of social work and has practiced in the private and public sectors. Ms. Archer has extensive knowledge and experience with the human rights system and the Department through her past membership on the SHRC. Ms. Archer resides in Richmond.

Ms. Barbara Jenkins

Ms. Barbara Jenkins is an attorney. She has been a member of the Region Ten Local Human Rights Committee since May of 2000 and served as Chairperson of that committee. She has lectured on special education services for the Association for Retarded Citizens in Charlottesville and has represented a number of mentally retarded children. Ms. Jenkins resides in Charlottesville.

Mr. Bobby Tuck

Mr. Bobby Tuck has a son who is receiving services from DMHMRSAS, which helps to fulfill the SHRC’s mandate for consumer and family membership. He is a respected former member of the Southside Virginia Training Center Local Human Rights Committee and served as Chair of that committee. He has extensive knowledge of the human services delivery system and has been an active participant in a number of organizations committed to the protection of our consumers. Mr. Tuck resides in Richmond.

Mr. Kirby Wright

Mr. Wright is Director of R.C. Right Group Home in Danville Virginia, and is a former member and Chair of the Southern Virginia Mental Health Institute Local Human Rights Committee (LHRC). He was a positive driving force of the local committee and has been an active and respected member of the state committee. Mr. Wright resides in Danville.

OFFICER APPOINTMENTS/MEMBERSHIP CHANGES

Effective July 1, 2004

Joyce Bozeman, Chair
Dr. Michael Marsh, Vice Chair

Term Expired in 2004:

James Briggs

New Appointments in 2004

The State Board appointed Mr. Kirby Wright and Ms. Delores Archer to the SHRC effective July 1, 2004.

STATE HUMAN RIGHTS COMMITTEE ACTIVITIES

- **LHRC Bylaws**

LHRC Bylaws and Bylaw revisions were approved for the following LHRCs.

Blue Ridge Behavioral Health Authority LHRC
Hampton Newport News LHRC
Southeastern Virginia Training Center LHRC
Central State Hospital LHRC
Mt. Rogers CSB LHRC
Richmond Behavioral Health Authority LHRC
Holiday House LHRC
District 19 CSB LHRC
Southwestern Regional LHRC
Fredricksburg Area LHRC
Northwestern CSB LHRC
Henrico LHRC
Chesterfield LHRC
Williamsburg Community Hospital LHRC
Arlington CSB LHRC
Fairfax Falls Church LHRC
Poplar Springs Hospital LHRC
Health Planning Region V LHRC
Hampton Roads LHRC
Peninsula RTC LHRC
Mid City LHRC
Middle Peninsula Northern Neck LHRC
Barry Robinson LHRC
Suffolk Regional LHRC
Eastern State Hospital LHRC
Genesis RTC LHRC
Metro Regional LHRC
Chesapeake Region LHRC
Region Ten LHRC
Rockbridge Area LHRC
New River Valley LHRC
Southwestern Virginia Mental Health Institute LHRC

- **Variances**

Variances were approved for the following providers.

Western State Hospital
Keystone Newport News Youth Center
Eastern State Hospital
Central State Hospital

Cumberland Mountain
Bethany Hall
New Life Recovery
Barry Robinson
Specialized Youth Services
The Pines
Serenity House

Model Variances were approved for the following providers:

Southside Virginia Training Center
Southwestern Virginia Training Center
Southwestern Virginia Mental Health Institute
Southern Virginia Mental Health Institute
Piedmont Geriatric Hospital
Catawba Hospital
Hiram Davis Medical Center
Chesterfield CSB

- **LHRC Appointments**

The SHRC appointed 129 individuals to serve on local human rights committees.

- **Meetings**

In 2004 the State Human Rights Committee held the following meetings:

January 23	Central Office Richmond, Virginia
March 5	Southside Virginia Training Center Petersburg, Virginia
April 23	Virginia Baptist Hospital Lynchburg, Virginia
June 4	Catawba Hospital Catawba, Virginia
July 16	Loudon County CSB Leesburg, Virginia
September 10	Western State Hospital Staunton, Virginia
October 22	Eastern State Hospital Williamsburg, Virginia

Meeting at various facilities and programs throughout the state provides the Committee with first hand knowledge and familiarity with the kinds of services available to consumers and the settings within which services are provided. Meetings are frequently held at other locations to accommodate hearings or when the agenda dictates the need to schedule meetings in the Central Office. Private psychiatric hospitals are new to the human rights system so the committee made an effort to meet in those facilities this past year.

- **Case Reviews**

Making decisions regarding consumer appeals is among the most challenging and important tasks for the SHRC. A total of more than 3573 human rights and abuse/neglect complaints were processed through the human rights resolution process in 2004. All but seventeen (17) of these cases were resolved at the Directors level or below. Those seventeen (17) cases were appealed to a local human rights committee and seven (7) of those cases were brought before the State Human Rights Committee on appeal. Each case provided the consumer with an additional opportunity to be heard regarding their human rights complaint. These appeals are the culmination of the human rights process and the decisions rendered by the SHRC provide guidance to LHRCs, facilities and programs across the state. Issues addressed in decisions rendered by the SHRC this past year included:

- * right to protection from harm, abuse and exploitation
- * right to confidentiality
- * right to treatment with dignity
- * right to informed consent
- * right to participation in decision-making
- * right to freedoms of everyday life
- * right to access and correct record
- * right to services

- **Outcomes and Activities**

SHRC Biennium Goals and Recommendations for 2004-06

Biennium Goal #1

Periodic review of the human rights regulations began in the fall of 2004. The SHRC recommends that this review include, but not be limited to, the following:

- Conforming the regulations with HIPAA
- Pursuing ways of increasing the effectiveness and efficiency of the LHRC system
- 12 VAC-35-115-50 (4)c and (5) regarding the type of professional that can approve the limit of phone access or visitors in SA programs
- 12 VAC 35-115-30 and 100 regarding Time Out
- Reporting requirements

Progress toward Biennium Goal #1 to date:

The human rights regulations are being revised in accordance with the procedures and time frames in the Administrative Process Act. It is estimated that the revised regulations will become effective in the spring of 2006

2004-2005 SHRC activities related to goal #1 include committee members participating on the Human Rights Regulation Revision (H3R) Advisory Committee and the Participation in Decision Making Subcommittee.

Biennium Goal #2

The SHRC will join the Department in promoting the concepts of Recovery and Self Empowerment.

- The SHRC will become knowledgeable about the concepts of Recovery and Self Empowerment by December 3, 2004.
- The SHRC will issue a statement supporting these concepts by February 1, 2005

Progress toward Biennium Goal #2 to date:

James S. Reinhard, M.D., Commissioner, presented an overview of Self Determination, Empowerment and Recovery, to the SHRC during it's meeting on December 3, 2004.

Three members of the SHRC attended the Governors Conference on Self Determination, Empowerment and Recovery, in Richmond on December 9 and 10, 2004.

The SHRC issued a statement supporting the concepts of Self Determination, Empowerment and Recovery on April 27, 2005.

Biennium Goal #3

The SHRC recommends that DMHMRSAS continue to promote the human rights concepts of treatment in the most integrated settings, and consumer and family choice that are central to the Olmstead Decision.

- Monitor state facility ready for discharge lists on a quarterly basis.
- Join and monitor the efforts of the Department and VACSB to increase the number of substitute decision makers beginning September 10, 2004.
- Monitor the Department and systems efforts toward maintaining youth in the community following their transition to adult services beginning September 10, 2004 including the establishment of a subcommittee to review current information and statewide efforts in this area. The subcommittee will provide updates each meeting and submit a final report by December 3, 2004.
- Recommend that the Department and CSBs take a more active role in the training of private community providers particularly MR waiver providers by September 10, 2004.

Progress toward Biennium Goal #3 to date:

The SHRC monitors the state MH facility discharge lists on a quarterly basis. The SHRC requests that the Department provide and update on the status of services for youth in transition at its meeting on July 15, 2005

Frank Tetrick, Assistant Commissioner and Lee Price, Director of the Office of Mental Retardation (OMR) presented the OMR provider training schedule to the SHRC at its December 3, 2004 meeting. The SHRC recommended that human rights be included in some of the training modules.

Biennium Goal #4

The SHRC recommends that DMHMRSAS continue to promote the concept of, and provide training in, treatment without coercion in state operated facilities and community based programs and hospitals.

- The SHRC will become knowledgeable about TOVA by December 3, 2004
- The SHRC recommends that all DMHMRSAS CO staff attend TOVA Training to assist with the overall Department culture change by December 3, 2004
- The SHRC recommends that the Department take steps to ensure TOVA training is available for all community providers by June 1, 2005.

Progress toward Biennium Goal #4 to date:

The SHRC received a brief overview of TOVA concepts on October 22, 2004 and issued a letter of support and recommendation to Commissioner Reinhard on December 6, 2004.

Biennium Goal #5

The SHRC recommends that DMHMRSAS increase the number of Human Rights Advocates in accordance with the recommendations in House Document No. 21; "Evaluating the Human Rights Advocates in State Facilities and Community Programs"

- Take a more active role in advocating for additional resources for the OHR, letter to Commissioner, State Board by September 10, 2004.

Progress toward Biennium Goal #5 to date:

The SHRC sent a letter and made a presentation to the State DMHMRSAS Board on January 26, 2004 regarding the need for more human rights advocates.

Biennium Goal # 6

The SHRC will monitor the Virginia Center of Behavioral Rehabilitation's adherence to the human rights regulations through reports, policies and complaint resolution as needed at every meeting or as issues arise.

Progress toward Biennium Goal #6 to date:

The SHRC receives a monthly report from the human rights advocate serving VCBR.

The SHRC reviewed and approved 9 VCBR policies and procedures in 2004. There were eight (8) level one human rights complaints in 2004.

Members of the SHRC walked through the VCBR and met some of the residents on March 5, 2004.

Biennium Goal # 7

The SHRC will support Local Human Rights Committees.

- Each SHRC member will attend at least one LHRC meeting per year. SHRC members will provide prior notice to the LHRC chair requesting time on the agenda in order to make brief comments.
- The SHRC will convene a work group by December 3, 2004, with representatives of local committees, providers and the Office of Human Rights to develop resources to assist with recruitment of LHRC members on the local level.
- The SHRC will explore options by December 3, 2004, to enhance communication with LHRCs via the use of such tools as electronic newsletters or web-based information.

Progress toward Biennium Goal #7 to date:

As of 6/05, seven SHRC members attended at least one meeting of a local human rights committee. Two SHRC members attended more than one local human rights committee meetings.

The SHRC plans to issue its first Bulletin by December 31, 2005.

Biennium Goal # 8

The SHRC will promote and provide ongoing training opportunities for all stakeholders.

- Review the Seminar Evaluations by October 22, 2004.
- Prioritize training issues based on the evaluations
- Develop strategies to address the identified training issue.

Progress toward Biennium Goal #8 to date:

The SHRC reviewed the Seminar evaluations at its meeting on October 22, 2004 and considered topics and structure for future seminars. One idea discussed was the different needs of the providers and LHRC members and whether each would be better served by having separate trainings.

Biennium Goal # 9

The SHRC will establish a subcommittee by October 2005 to explore the feasibility of a recognition/award/ or other activity to encourage and recognize exemplary programs, acts or significant contributions to the human rights system.

Progress toward Biennium Goal #9 to date:

The SHRC established a subcommittee on June 3, 2005, to explore the feasibility of recognition/award/ or other activity to encourage and recognize exemplary programs, acts or significant contributions to the human rights system.

Biennium Goal # 10

The SHRC will explore options to promote successful succession planning for advocacy within the Department and community human rights system by July 1, 2005.

Progress toward Biennium Goal #10 to date:

The SHRC revised the due date of this goal to December 31, 2005.

OFFICE OF HUMAN RIGHTS PROGRAM HIGHLIGHTS

STAFFING

The Office of Human Rights experienced several staff changes in 2004. Mark Seymour was hired as the CORE (Title 4E) Advocate serving the Commonwealth Center for Children and Adolescents and Regions I and II. Musa Ansari was hired as the Regional Advocate for Region II. Deb Jones was hired as the advocate at Southwestern Virginia Mental Health Institute following the departure of David Lardy. Linda Brechbill was hired to fill the vacancy at Northern Virginia Mental Health Institute and Jennifer Bailey resigned her position as the CORE Advocate for Regions IV and V. The Office of Human Rights Directory/Roster and OHR Regions can be found in **Appendix I**.

The Office of Human Rights continues to operate with reduced staff resources. Over the past four years the OHR has lost 2 advocate positions, 2 secretary positions and 1 management position. These losses coincide with an increase of individual's served in the community, an increase in the number of private providers, and an increase in the number of local human rights committees. The current staffing pattern severely reduces the availability of the OHR to provide quality advocacy services and the reduction all but eliminates the OHR availability to provide training to consumers, providers and professionals that may result in a lack of understanding about the regulations which could lead to consumers being at risk. The Department's overall system of consumer protection, including the Office of Licensing, is at risk due to the lack of staff resources.

In collaboration with the Department of Social Service (DSS), the OHR established two "units" in order to access Federal Title 4E funds. These "CORE" Units, consist of staff that work exclusively with children's residential programs. These programs are eligible for Title 4E (Child Welfare) funds, which means our actions toward monitoring compliance can generate revenue. Other OHR staff that provide services to children's residential programs, and are not part of the CORE Units, submit a time sheet for submission to DSS for reimbursement. The OHR received \$253,447.64 in Title 4E funds in 2004.

The OHR continues to promote the cross training of all advocates. Advocates are able to provide services to both community and state facility programs which strengthens both the community and facility programs by providing continuity of care and an increased emphasis on discharge planning and service development.

Efforts to promote compliance with the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services* continued throughout the year. These efforts included the following activities:

Training: OHR staff have provided training to consumers, family members or providers at the following locations:

- Club Houses
- Psychiatric Hospitals
- Professional Organizations
- Parent Organizations
- Group Homes
- Residential Treatment Centers
- Training Centers
- Psychosocial Rehabilitation Programs
- Community Organizations
- Substance Abuse Programs
- Conferences/Meetings
- Community Services Boards
- Preadmission Screening Evaluator Certification (video tape)

Web based Information: Individuals can also access general information about the human rights program at www.dmhmr.sas.virginia.gov/ohr

This information includes:

- Notice of SHRC meetings
- Notice of Variance requests
- LHRC affiliations and meeting schedules
- Relevant legislative information
- OHR Directory
- SHRC Annual Reports
- Frequently Asked Questions (FAQs)
- Human rights training information including video tapes, power point slide presentations and workbook
- Sample Test Questions

OFFICE OF LICENSING / OFFICE OF HUMAN RIGHTS

This past year saw a continuation of the cooperation and collaboration between the OHR and the Office of Licensing. These efforts were prompted by §§ **37.1-84.1 (A) 10, 37.1-179 and 37.1-185.1** of the **Code of Virginia**. These sections of the code require providers to be in compliance with the human rights regulations in order to become licensed by the Department and require each provider to undergo periodic human rights reviews. The code also establishes human rights enforcement and sanctions, which provides consequences for providers for failure to comply with human rights regulations. The OHR developed a Monitoring Tool to promote consistent documentation of monitoring activities. The instrument was used for six months as a pilot and was revised following a period of evaluation. The revised instrument went into effect on April 1, 2004.

The OHR and OL also developed a protocol to clarify the relationship between the OL and the OHR in the area of abuse and neglect investigations. The protocol establishes a model for investigations which

is consistent and, most importantly, provides the maximum protection for consumers. The protocol has improved the quality of investigations for both offices.

TRAINING AND STAFF DEVELOPMENT

Quarterly Advocate (QA) meetings were held at Western State Hospital May 26, and via polycom on March 17 and September 15. The final QA meeting was held on December 10th at the conclusion of the Governors Conference on Recovery, Empowerment and Self Determination. QA training was geared toward enhancing staff ability to effectively advocate for their consumers, and monitor the implementation of the regulations. Topics covered during the last year included the following: seclusion, restraint and time out, role of the advocate in the licensing revocation process, facility and community crossover cases, management of policy and procedure reviews, and working with the media. These meetings also served to keep staff informed of relevant policy and legislative changes. Guest presenters included the Director of the Office of Quality Care and the Director of Media and Legislative Services.

2004 LHRC/SHRC Seminar

The Office of Human Rights sponsored the 2004 LHRC/SHRC Seminar on March 31, 2004 in Charlottesville, Virginia. The topics included in the program for the seminar were based on a survey conducted of local human rights committee members. The program included presentations on the Authority, Roles and Responsibilities of LHRC Members, Understanding Restrictive Programs Utilizing Seclusion and Restraint, How to Conduct a Hearing, Complaint Process, Informed Consent, Participation in Decision Making, Confidentiality, and Self Advocacy & Self Empowerment. Due to the large number of provider registrations a session was added specifically for providers called the Providers Forum. Over 450 individuals attended the seminar and the evaluations were extremely positive.

Governors Conference on Recovery, Empowerment and Self Determination

The Governors Conference on Recovery, Empowerment and Self Determination was held in Richmond on December 9 & 10, 2004. All members of the Office of Human Rights and several State Human Rights Committee members attended this important conference. The conference highlighted the concepts of recovery, empowerment and self-determination, and showcased and honored providers, organizations and individuals that model these concepts through daily practice.

ABUSE RELATED INITIATIVES

Office of Human Rights staff have been involved in several initiatives relative to abuse and neglect. OHR staff participated in the Department's efforts to develop a new system of aggressive behavior intervention. These efforts resulted in the use of a new program, Therapeutic Options of Virginia (TOVA) that will enhance the treatment and safety of consumers and staff. OHR staff promote the use of TOVA with private and public providers.

OHR staff are involved in the Department's efforts to reduce the use of seclusion and restraint in state facilities. Several OHR staff attended the Department's conference "Reducing Seclusion and

Restraint: Creating Culture Change and Transformation” on June 15th and 16th in Richmond. OHR staff will continue to work with facility and community provider staff toward this goal.

HUMAN RIGHTS REGULATION REVISION PROCESS

In October 2004, the Office of Human Rights invited consumers, family members, local and state committee members, advocacy organizations, providers, professionals and state agency representatives to join an advisory group to give guidance to the Department about how to revise the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*. This group, the H3R (Human Rights Regulation Revision) Advisory Committee had its first meeting on November 7, 2004. One of the first tasks of the H3R Advisory Committee was to develop Guiding Principles for the revision to the regulations. The first meeting agenda, Guiding Principles and H3R Advisory Committee membership list can be found in **Appendix II**.

PROJECTED ACTIVITIES FOR 2005-06

The primary goal for the Office of Human Rights for the year 2005-06 is to provide quality advocacy services to consumers in programs operated, funded and licensed by the Department. This is always the central function of the OHR and all other goals and activities support this goal. In support of this goal a major activity for the upcoming year will be revising the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*. Other major projected activities for the Office of Human Rights for the years 2005-06 are as follows:

- A. Provide training for consumers, local and state committee members, providers and professionals on the revised regulations.
- B. Pursue the development of a consumer human rights mentoring program.
- C. Promote best practice models of Recovery and Self Empowerment
- D. Participate in the Regional Restructuring planning process.
- E. Finalize the revision to the human rights brochure.
- H. Promote the use of the Therapeutic Options of Virginia.
- I. Promote coercion free environments statewide.
- J. Work with the VACSB and other stakeholders to identify options to improve the system and availability of alternative decision-makers.
- K. Promote consistency and accurate documentation of monitoring activities.
- L. Develop resources to assist consumers and providers as needed.

LOCAL HUMAN RIGHTS COMMITTEES

Local Human Rights Committees continue to monitor the activities of facilities and community programs in assuring protection of consumers' rights. The volunteers who serve on these committees lend their time and expertise to ensure compliance with the Rules and Regulations. Committee members are appointed by the State Human Rights Committee and are eligible to serve two three-year terms. A listing of all 65 LHRCs and their program affiliates can be found in **Appendix III**.

All committees meet at least quarterly, with many meeting on a monthly basis. Local Human Rights Committees activities include:

- reviewing complaints filed on behalf of consumers;
- developing Bylaws;
- reviewing Variance requests;
- conducting Fact-Finding Conferences;
- reviewing restrictive programs; and
- reviewing policies and procedures.

ADVOCATES ACTIVITIES

During the year, the human rights staff was involved in numerous activities to ensure and protect the rights of consumers. These activities included:

- Assisting consumers in presenting and resolving complaints;
- Educating consumers, families, staff and Local Human Rights Committees on the rights of consumers;
- Monitoring the implementation and compliance with the regulations;
- Assisting in developing, reviewing and amending human rights policies and procedures for the approximately 450 providers in the state;
- Providing training to staff, consumers, family members, LHRCs;
- Providing consultation to consumers, program staff, LHRCs, advocacy and community groups on the human rights program.
- In addition to the above, the regional advocates provide advocacy services to community services boards and licensed programs in their assigned service areas. They also provide supervision to the facility advocates in that area.

SUMMARY OF COMMUNITY PROGRAM ABUSE /NEGLECT and COMPLAINT ALLEGATIONS

The following table reflects statistics on abuse/neglect allegations/substantiation and human rights complaints from community programs for the years 2001, 2002, 2003 and 2004. This information is reported to the Regional Advocates from the Community Service Boards (CSB) and private providers.

- There were *534 human rights complaints as reported to Regional Advocates in 2004. This is up from 380 in 2003. The number of human rights complaints fluctuates greatly from year to year as evidenced by the table below. The Office of Human Rights understands the fluctuation as a function of many factors including improved management of informal complaints, better understanding of the provider duties under the regulations, increase provider training and consultation, better general understanding of the regulations and improved LHRC oversight.
- There were *1694 1allegations of abuse and/or neglect as reported to Regional Advocates in 2004, which is up slightly from the 1626 allegations in 2003.
- There were *276 substantiated cases of abuse and or neglect as reported to Regional Advocates in 2004, which is slightly more than the 252 cases in 2003.

***Incomplete data**

Community Programs

	Abuse Allegations	Abuse cases Substantiated	Human Rights Complaints
2001	899	162	840
2002	1094	215	785
2003	1626	252	380
2004	*1694	*276	*534

*Incomplete data

SUMMARY OF STATE FACILITY

HUMAN RIGHTS COMPLAINTS and ABUSE/NEGLECT ALLEGATIONS

(Data source is CHRIS)

- There were 780 human rights complaints in state facilities in 2004. This is up slightly from the 752 complaints in 2003. The combined total of formal and informal complaints remains statistically the same.
- Seven hundred and seventy five (775) of the facility complaints were resolved at the Directors level or below. Five (5) human rights complaints of consumers in a state facility were heard on appeal at the LHRC level and five (5) complaints were heard on appeal at the SHRC level.
- There were 565 allegations of abuse/neglect in the state facilities. Down from 660 in 2003.
- Twenty three (23) facility employees were terminated for abuse or neglect in 2004.
- Eight (8) facility employees resigned as a result of receiving an allegation of abuse or neglect. Twenty four (24) employees received written counseling notices and thirty-three (33) received suspensions for actions involving an allegation of abuse or neglect.
- Seventeen percent (17%) of facility abuse/neglect allegations were substantiated in 2004. This is statistically similar to the 19% in 2004.
- The regulations provide for an Informal Complaint [12 VAC 35-115-160] process that is conducted by the provider prior to the involvement of the human rights advocate. The Informal Process has been widely and variably utilized within state operated facilities. During 2004 there were 904 Informal Complaints processed within state operated facilities. This is a reduction of 243 from the 1147 Informal Complaints processed in 2003. The Office of Human Rights monitored the outcome of these Informal Complaints and found that the complaints were being resolved to the satisfaction of the individual consumer. While informal complaints decreased the formal complaints increased resulting in the total number of informal and formal complaints remaining statistically similar.

State Facility
Abuse/Neglect Data

#Allegations/ #Substantiated

	2001	2002	2003	2004
Catawba	33/0	16/0	8/0	12/5
Central State	223/29	172/28	148/27	119/10
CVTC	68/14	73/13	63/18	51/13
CCAA	25/1	12/0	11/0	11/0
Eastern State	101/23	71/12	79/14	92/8
Hiram Davis	12/0	10/4	9/1	7/1
NVMHI	41/0	65/4	49/4	29/1
NVTC	11/3	16/7	11/5	12/7
Piedmont	18/4	17/4	6/3	9/1
SEVTC	52/5	47/13	71/19	29/8
SVMHI	12/0	4/0	21/1	6/2
SVTC	34/9	39/12	60/23	70/27
SWVMHI	30/0	40/3	34/3	32/7
SWVTC	63/2	71/6	66/9	71/7
Western State	62/5	33/5	24/6	15/1
Totals	785/95	686/112	660/133	565/98

State Facility
Human Rights Complaints

	2001	2002	2003	2004
Catawba	210	122	40	22
Central State	60	109	179	193
CVTC	176	191	42	11
CCAA	69	34	8	1
Eastern State	203	53	84	101
Hiram Davis	2	1	1	2
NVMHI	251	99	52	51
NVTC	17	4	0	0
Piedmont	106	69	77	76
SEVTC	9	5	2	3
SVMHI	32	24	31	26
SVTC	9	12	7	10
SWVMHI	183	80	41	28
SWVTC	22	19	17	15
Western State	391	239	171	241
Totals	1740	1061	752	780

State Facility
Informal Complaints

	2003	2004
Catawba	29	35
Central State	29	21
CVTC	71	18
CCAA	21	22
Eastern State	502	373
Hiram Davis	5	3
NVMHI	40	75
NVTC	2	1
Piedmont	23	18
SEVTC	14	6
SVMHI	4	19
SVTC	4	11
SWVMHI	144	81
SWVTC	27	19
Western State	232	202
Totals	1147	904

APPENDIX

I

OFFICE OF HUMAN RIGHTS DIRECTORY
OFFICE OF HUMAN RIGHTS REGIONS

APPENDIX

II

H3R Advisory Committee membership list, guidelines and meeting agenda.

APPENDIX

III

Local Human Rights Committees and Affiliations